

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION (DAYTON)

PLAYTEX PRODUCTS, INC.,	:	CASE NO. 1:02cv391
	:	(Judge Thomas M. Rose)
Plaintiff,	:	
	:	
v.	:	
	:	
THE PROCTER & GAMBLE	:	DEFENDANTS' NOTICE OF
DISTRIBUTING COMPANY, <u>et al.</u> ,	:	DELIVERY OF .PDF COMPUTER
	:	FILE CONTAINING DEFENDANTS'
Defendants.	:	MOTION FOR SUMMARY
	:	JUDGMENT OF NON-
	:	INFRINGEMENT BASED ON
	:	MARKMAN RULING (FILED
	:	UNDER SEAL PURSUANT TO THE
	:	OCTOBER 25, 2002 AGREED
	:	<u>PROTECTIVE ORDER)</u>

Pursuant to this Court's Order of September 11, 2003, granting Defendants' Motion for Leave to File Motion for Summary Judgment of Non-Infringement Based on Markman Ruling (Filed Under Seal Pursuant to the October 25, 2002 Agreed Protective Order) (filed August 18, 2003), Defendants give notice of the delivery of a .PDF computer file containing Defendants' Summary Judgment Motion on a CD-ROM to the Court this 12th day of September, 2003, for uploading to the CM/ECF system.

Respectfully submitted,

s/Charles J. Faruki by Thomas R. Kraemer

Charles J. Faruki (0010417)

Trial Attorney

Thomas R. Kraemer (0060120)

Donald E. Burton (0040553)

FARUKI IRELAND & COX P.L.L.

500 Courthouse Plaza, S.W.

10 North Ludlow Street

Dayton, Ohio 45402

Telephone: (937) 227-3705

Telecopier: (937) 227-3717

E-Mail: cfaruki@ficlaw.com

Attorneys for Defendants

CERTIFICATE OF SERVICE

I certify that on September 12, 2003, I electronically filed Defendants' Notice of Delivery of .PDF Computer File Containing Defendants' Motion for Summary Judgment of Non-Infringement Based on Markman Ruling (Filed Under Seal Pursuant to the October 25, 2002 Agreed Protective Order) with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

James B. Helmer
Paul B. Martins
HELMER, MARTINS & MORGAN CO., L.P.A.
Fourth & Walnut Centre
Suite 1900
105 East Fourth Street
Cincinnati, OH 45202

and I certify that this document has been served via Federal Express upon the following non-CM/ECF participants this 12th day of September, 2003:

Matthew B. Lehr
Allon Stabinsky
LATHAM & WATKINS
135 Commonwealth Drive
Menlo Park, CA 94025

Robert J. Gunther
Michelle Lewin
Daiske Yoshida
LATHAM & WATKINS
885 Third Avenue
New York, NY 10022-4802

Attorneys for Plaintiff
Playtex Products, Inc.

s/Thomas R. Kraemer

Thomas R. Kraemer (0060120)

FARUKI IRELAND & COX P.L.L.

500 Courthouse Plaza, S.W.

10 North Ludlow Street

Dayton, Ohio 45402

Telephone: (937) 227-3725

Telecopier: (937) 227-3717

E-Mail: tkraemer@ficlaw.com

Attorneys for Defendants

126853.1